

REMARKS

The Examiner provisionally rejected claims 28-29 and 31-34 on the ground of nonstatutory double patenting over claims 44 and 52 of co-pending Application No. 10/587,352.

The Examiner rejected claims 28-29 and 31 pursuant to 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner rejected claims 28, 31 and 34 pursuant to 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 6,145,352 to Vickers ("Vickers"). The Examiner rejected claims 32 and 33 pursuant to 35 U.S.C. § 103 as being unpatentable over Vickers in view of U.S. Pat. No. 5,251,467 to Anderson ("Anderson").

Claims 28-29 and 31-34 are now pending. Claims 28 and 31 are currently amended. Claims 1-26 are previously canceled. Claims 27, 30, and 35-52-40 are currently withdrawn. The following remarks are considered by applicant to overcome each of the Examiner's outstanding rejections to current Claims 28, 29, and 31-34. An early Notice of Allowance is therefore requested.

1. Summary of Relevant Law

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The determination of obviousness rests on whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. In determining obviousness, four factors should be weighed: (1) the scope and content of the prior art, (2) the differences between the art and the claims at issue, (3) the level of ordinary skill in the art, and (4) whatever objective evidence may be present. Obviousness may not be established using hindsight or in view of the teachings or suggestions of the inventor. The Examiner carries the burden under 35 U.S.C. § 103 to establish a prima facie case of obviousness and must show that the references relied on teach or suggest all of the limitations of the claims.

2. Rejection Of Claims 28-29 And 31-34 On The Ground Of Nonstatutory Double Patenting

On page 2 of the current Office Action, the Examiner rejects Claims 28-29 and 31-34 on the ground of non-statutory obviousness type double patenting. These rejections are respectfully traversed and believed overcome in view of the following discussion. Applicants submit that the cited claims do not include a second inclined surface, and therefore, the claims of the pending application are patentably distinct from the claims of the cited application.

Accordingly, Applicants respectfully request withdrawal of the rejection

3. Rejection of Claims 28, 29, and 31 under 35 U.S.C. § 112, second paragraph

On page 3 of the current Office Action, the Examiner rejects Claims 28-29 and 31 pursuant to 35 U.S.C. § 112, second paragraph, as being indefinite. These rejections are respectfully traversed and believed overcome in view of the following discussion.

Claims 28 and 31 are amended herein clarifying the claims. Therefore, Applicant respectfully requests that Examiner withdraw the rejection of Claims 28, 31, and 34 under 35 U.S.C. § 112, second paragraph.

4. Rejection of Claims 28, 31 and 34 under 35 U.S.C. § 102(b) by Vickers

On page 4 of the current Office Action, the Examiner rejects Claims 28, 31 and 34 pursuant to 35 U.S.C. § 102(b) as being anticipated by Vickers. These rejections are respectfully traversed and believed overcome in view of the following discussion.

Claim 28 recites, inter alia:

“...holding elements which project from the body part and are displaceable in direction of the holding elements’ outer surfaces, a free end of said holding elements being provided with an inclined surface for supporting the body part without play on the rim or edge of the opening of the other, inner side of the thin wall,

wherein the holding elements comprise two slides being diametrically oppositely arranged in the slides having at their free end a first and a second inclined surface, being approximately at a right angle to each other,

one tilted surface enclosing an acute angle with respect to the plane of the inner side of the thick wall and the cut line of the this tilted surface with the plane of the inner side of the thin wall is within the opening in the thin wall touching the rim of the inner side of the opening when the latch is mounted therein..." (emphasis added)

The holding elements of Vickers that are provided for supporting the latch are clamping elements 230, 240 pressing the rim of an opening 248 provided in a thin wall 250, see Fig. 1, 5, and 6 of Vickers. The elements (slide bolts) 150, 110 are not provided for supporting the latch in the break through 248 of the thick wall or door panel 250 but they are provided for the slamming and latching action and for fixing the thin wall or door panel 250 against door frame 252.

Therefore, Applicants submit that the Office Action errs in asserting that a first inclined surface at the free end of the holding elements (slide bolts 110, 150) is provided for supporting the body part of the latch 10 without play on the rim of the break through. Furthermore, the Office Action again errs in asserting that the free end of the holding elements (110, 150) is further provided with a second inclined surface for slam action during mounting the latch into the break through 248.

Instead the slam action occurs after mounting the latch in the door, namely during closing the door whereby the inclined surface passes the edge of door frame 252.

The mounting the latch is done without slam action is evident in column 10, line 57 – column 11, line 28 of Vickers.

Therefore, claim 28 is patentable. Claim 31 recites similar features and, therefore, Applicants believe claim 31 is also patentable.

Accordingly, Applicant respectfully asserts that Examiner has failed to establish a prima facie case of obviousness of independent Claim 28, and corresponding Claim 31 and claim 34 because claim 34 is dependant from independent Claim 28. Therefore, Applicant respectfully requests that Examiner withdraw the rejection of Claims 28, 31, and 34 under 35 U.S.C. § 102(b) as being anticipated by Vickers.

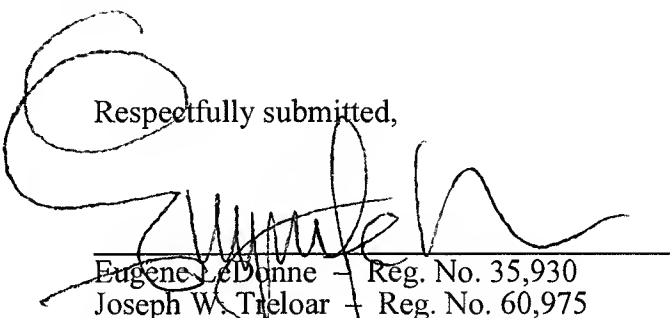
5. Rejection of Claims 32 and 33 under 35 U.S.C. § 103 over Vickers in view Anderson

On page 6 of the current Office Action, the Examiner rejects Claims 32 and 33 under 35 U.S.C. § 103 as being unpatentable over Vickers in view Anderson. These rejections are respectfully traversed and believed overcome in view of the following discussion.

Claims 32 and 33 depend from independent Claim 31. As Claim 31 is allowable, so must be Claims 32 and 33. Therefore, Applicant respectfully requests that Examiner withdraw the rejection of Claims 32 and 33 pursuant to 35 U.S.C. § 103 as being unpatentable over Vickers in view of Anderson.

Based upon the above remarks, Applicant respectfully requests reconsideration of this application and its early allowance. Should the Examiner feel that a telephone conference with Applicant's attorney would expedite the prosecution of this application, the Examiner is urged to contact him at the number indicated below.

Respectfully submitted,



Eugene LeDonne - Reg. No. 35,930
Joseph W. Treloar - Reg. No. 60,975
REEDSMITH LLP
599 Lexington Avenue
New York, NY 10022
Tel.: 212.521.5400

EL:JWT
135408-2038